

### **REMARKS**

Reconsideration and withdrawal of the objection to the Drawings under 37 CFR 1.83(a) as not showing the upper section of the base that tapers upwardly to a smaller size is respectfully requested. The drawings do indeed show that the upper section (48) of the base (42) has a slight taper (52) upwardly to a smaller size. Moreover, it is specifically referred to in the Specification, page 7, lines 151-153, that "as is perhaps best illustrated in FIG.4, from approximately the middle 50 of base 42 there is a slight inward taper 52 of the upper section 48 towards the top to a smaller size." Enclosed, not as an amendment, but only as an illustrative aid to the Examiner is a copy of page 2 of the Drawings in which the lines of the taper 52 in FIG. 4 have been extended in red to make the taper more apparent.

All of Claims 1-16 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as their invention. More specifically, the Examiner indicated that certain terms in Claim 1, the sole independent claim, as well as in dependent Claims 2, 3, and 12, were not clear or that their meaning was not clear.

In Claim 1, the Examiner indicated that everything that included the phrases "pre-selected size and configuration" and "pre-determined size and configuration" was unclear. These phrases have been deleted from currently amended Claim 1, as well as from currently dependent Claims 15 and 16. In addition, "hollow" has been inserted before casing in currently amended Claim 1.

The "plurality of individually consumable candy modules carried in the casing" has been amended to more particularly point out and distinctly claim that the plurality of candy modules is "separable" and carried "stacked" in the casing, and that the base of each candy module is "not consumable".

The phrase "fixed overall size", more particularly, the entire phrase "being of a fixed overall size and configuration" has been deleted from currently amended Claim 1. With respect to it not being clear to the Examiner what "not fitting entirely" means, it is respectfully submitted that the meaning of "not fitting entirely into a standard choke gauge" is clearly understood by those of ordinary skill in the art of designing products for children to comply with Product Safety Standards (Children's Toys) Regulations. As indicated in the Specification, page 12, lines 262-263, "If an object fits entirely inside Choke Tester 72, then it is considered a choking hazard to a child under three years of age." (emphasis added)

Reconsideration and withdrawal of the rejection of Claim 1, under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as their invention is respectfully requested, particularly as Claim 1 is currently amended.

Dependent Claims 2 and 3 have been canceled, and dependent Claim 4, which depended from Claim 2, is currently amended to depend directly from Claim 1 as well as to accommodate the change in the dependency.

Claim 12, which depends directly from Claim 1 has been currently amended to more particularly point out and distinctly claim that "the base has a cavity that extends upwardly from the bottom of the lower section of the base."

Reconsideration and withdrawal of the rejection of Claims 1-16, of which as currently amended, Claims 1 and 4-16 remain, is respectfully requested.

In view of the Examiner's indication that "[none] of the prior art teaches stacking a series of smaller pieces of candy and using the base support of the consumed piece of candy to move the other pieces of candy in the holder to expose the uppermost one for consumption", new independent Claim 17, and new Claims 18-22, which depend directly or indirectly from new Claim 17, have been added. It is respectfully submitted that these new claims particularly point

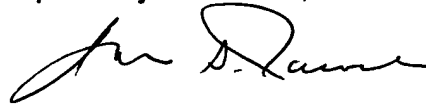
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out and distinctly claim the subject matter which applicants regard as their invention. It is also respectfully submitted that using the base support of the consumed piece of candy in the casing to expose the uppermost one for consumption is indeed shown in the Drawings, more particularly FIGS. 3 and 4. As illustrated in FIGS. 3 and 4 it does not matter whether the consumable piece of candy has been consumed or not. Insertion of the base into the bottom of the casing will move the other modules up in the casing to expose the consumable candy of the uppermost module for consumption.

Applicants respectfully submit that this Application, now containing Claims 1 and 4-20, of which Claims 1 and 17 are independent, and of which Claims 1, 4, 12, 15, and 16 are currently amended, is in condition for allowance, and respectfully request that a Notice of Allowance be timely issued.

Should anything further be required a telephone call to the undersigned at (630) 325-8678 is respectfully requested.

Respectfully submitted,



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